

United States  
Circuit Court of Appeals <sup>15</sup>

For the Ninth Circuit.

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EDWARD WHITE, Commissioner of Immigration  
at the Port of San Francisco,  
Appellant,

vs.

WONG QUEN LUCK,  
Appellee.

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Transcript of Record.

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Upon Appeal from the United States District Court for  
the Northern District of California,  
First Division.

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Filed

JUL 10 1916

F. D. Moulton,  
Clerk.



United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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*In the District Court of the United States, for the  
Northern District of California, First Division.*

No. 15,895.

In the Matter of WONG QUEN LUCK, on Habeas  
Corpus.

**Names and Addresses of Attorneys of Record.**

For the Respondent: THE UNITED STATES AT-  
TORNEY.

For the Petitioner: JOSEPH P. FALLON, Esq.,  
San Francisco, Calif.

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*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
sion.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on Be-  
half of WONG QUEN LUCK.

**Praeceptum for Transcript of Record.**

To the Clerk of Said Court:

Sir: Please make copies of following papers to  
be used in preparing transcript on appeal in the  
above-entitled cause:

1. Petition for Writ of Habeas Corpus consisting  
of the first five pages thereof, thus omitting  
Exhibit "A."
2. Order to Show Cause.
3. Marshal's Return of Service of Order to Show  
Cause.
4. Demurrer to Petition.

5. Stipulation of Attorneys that Immigration Record and Exhibits be Filed and Considered Part of Petition.
6. Order Overruling Demurrer, and Ordering Writ to Issue.
7. Writ of Habeas Corpus and Marshal's Return Thereto.
8. Return to Petition and Stipulation Set Forth on Last Page of Said Return.
9. Minutes of Hearing Before District Court, Nov. 12, 1915.
10. Order of Discharge.
11. Petition for Appeal.
12. Assignment of Errors.
13. Order Allowing Appeal.
14. Notice of Appeal. [1\*]
15. Stipulation and Order That Respondent's Exhibits "A" and "B" may be Transferred on Appeal in Their Original Form.
16. Stipulation as to Hearing on Return to Petition on Nov. 12, 1915.

JOHN W. PRESTON,

C. G. H.

United States Attorney.

Dated this 19th day of May, 1916.

[Endorsed]: Filed May 19, 1916. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [2]

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\*Page-number appearing at foot of page of original certified Record.



*In the District Court of the United States, in and for  
the Northern District of California.*

In the Matter of the Application of WONG HONG,  
for a Writ of Habeas Corpus for and on Be-  
half of WONG QUEN LUCK.

**Petition for a Writ of Habeas Corpus.**

To the Honorable MAURICE T. DOOLING, Judge  
of the Above-entitled Court.

Petition of Wong Hong respectfully shows:

I.

That your petitioner is a resident of the City and  
County of San Francisco, State of California; that  
this petition is made for and on behalf of Wong  
Quen Luck by said petitioner for the reason that the  
father of said Wong Quen Luck is at present out of  
the City and County of San Francisco; and for the  
further reason that Wong Quen Luck is in custody  
and cannot make the application for and on behalf  
of himself.

II.

That Wong Shoon Jung is the father of Wong  
Quen Luck; that said Wong Shoon Jung was born  
in the United States and is a citizen thereof, and a  
resident of Riverside, Riverside County, California.

III.

That said Wong Quen Luck, the detained person  
on whose behalf this petition is made, is the minor  
son of Wong Shoon Jung, and is a citizen of the  
United States.

## IV.

That the said Wong Quen Luck is unlawfully imprisoned, detained, confined and restrained of his liberty by Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, at the Immigration [3] Station at Angel Island or in some other place in the Northern District of California and is about to be deported from the United States to China.

## V.

That the illegality of such imprisonment, restraint, detention and confinement consists of this, to wit:

That the said Wong Quen Luck made application to be admitted to the United States as a citizen thereof and as the minor son of Wong Shoon Jung. That subsequent to said application to be so admitted to the United States, the said Wong Quen Luck was by the Secretary of Labor of the United States, refused and denied a fair hearing in good faith, and was by the Secretary of Labor by a manifest abuse of the discretion committed to him by law and against the spirit and letter of the law, denied the right to enter the United States, and in this respect petitioner alleges:

That the said Wong Quen Luck, during the month of June, 1915, arrived at the Port of San Francisco from China and made application to the Commissioner of Immigration at the Port of San Francisco for admission to the United States as a citizen thereof, and as a minor son of Wong Shoon Jung.

That thereafter said application for admission was

denied by said Commissioner, that thereafter, upon application made on behalf of said detained person, Wong Quen Luck, the said Commissioner, granted and permitted new and further testimony to be submitted by said detained person in support of said application for his admission to the United States; that thereafter said detained person Wong Quen Luck, did submit new and further testimony to said Commissioner in support of his application for admission to the United States; that thereafter as your petitioner is informed and believes and therefore alleges the fact to be, the inspector [4] who took said testimony under the direction of said Commissioner strongly recommended that said Wong Quen Luck be admitted to the United States and that he be permitted to reside therein and that said application for admission be granted and said petitioner alleges upon information and belief that said recommendations were so made for the reason that the said testimony so submitted clearly established the right of said detained person to enter the United States and reside therein.

That your petitioner is informed and believes and therefore alleges the fact to be that the Secretary of Labor thereafter without reason refused, neglected and failed to consider said testimony so submitted and said recommendation so made, and immediately thereafter denied said Wong Quen Luck the right to enter the United States and ordered the said Commissioner at the Port of San Francisco to deport the said Wong Quen Luck to China.

That your petitioner is informed and believes and

therefor alleges the fact to be that said Secretary of Labor did without reason consider other matters which were never incorporated in any record had or produced at the Port of San Francisco, the exact character and nature of which matter is now unknown to your petitioner and to Wong Quen Luck, and that at no time did the said Wong Quen Luck have an opportunity to rebut, deny, explain or overcome said matter.

#### VI.

A copy of the testimony taken in said matter before the Inspector of Immigration is attached hereto, made a part hereof and marked Exhibit "A."

#### VII.

That the said Wong Quen Luck, said detained person, has exhausted all the rights and remedies and has no further remedy before the Department of Labor, and that unless the writ of habeas [5] corpus issue out of this court as prayed for herein directed to the said Samuel W. Backus, Commissioner as aforesaid, in whose custody the body of the said Wong Quen Luck now is, the said Wong Quen Luck will be forthwith deported from the United States to China without due process of law.

WHEREFORE, your petitioner prays that the writ of habeas corpus be issued by this Honorable Court directed to and commanding the said Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, to have and produce the body of the said Wong Quen Luck before this Honorable Court at its courtroom in the City and County of San

Francisco, in the Northern District of California, at the opening of court on a day certain, in order that the alleged cause of imprisonment, detention, confinement and restraint of the said Wong Quen Luck and the legality or illegality thereof may be inquired into and in order that, in case the said imprisonment, detention, confinement and restraint are unlawful and illegal, that the said Wong Quen Luck be discharged from all custody, detention, imprisonment, confinement and restraint.

Dated this 28th day of September, 1915.

JOSEPH P. FALLON,  
Attorney for Petitioner. [6]

United States of America,  
State and Northern District of California,  
City and County of San Francisco,—ss.

Wong Hong, being first duly sworn, deposes and says: That he is the petitioner named in the foregoing petition; that he has read the foregoing petition and knows the contents thereof, that the same is true of his own knowledge except as to those matters therein stated on information and belief, and as to those matters he believes it to be true.

WONG HONG (Chinese Characters).

Subscribed and sworn to before me, this 28th day of September, 1915.

[Seal]

R. B. TREAT,  
Notary Public in and for the City and County of San Francisco, State of California. [7]

(Here follows Exhibit "A.")

[Endorsed]: Filed Sep. 28, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [8]



*In the District Court of the United States, in and for  
the Northern District of California.*

In the Matter of WONG QUEN LUCK, on Habeas  
Corpus.

**Order to Show Cause.**

Upon reading and filing the verified petition of Wong Hong praying for the issuance of the writ of habeas corpus, and good cause appearing therefor:

IT IS HEREBY ORDERED that Samuel W. Backus, as Commissioner of Immigration at the Port of San Francisco, at Angel Island, be and appear before the above-entitled Court, Department Number One thereof, on Saturday the 2d day of October, 1915, to show cause, if any he have, why a writ of habeas corpus should not issue in this matter and the petition granted as prayed, and this at the hour of 10 o'clock of said day, and

IT IS FURTHER ORDERED that said Wong Quen Luck be not removed from the jurisdiction of this Court until the further order of this Court, and

IT IS FURTHER ORDERED that a copy of this order be served upon said Samuel W. Backus or such other persons having said Wong Quen Luck in custody as an *office* of said Samuel W. Backus.

Dated Sept. 28, 1915.

M. T. DOOLING,  
Judge.

[Endorsed]: Sep. 28, 1915. W. B. Maling, Clerk.  
By C. W. Calbreath, Deputy Clerk. [9]

*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 15,895.

In the Matter of WONG QUEN LUCK, on Habeas  
Corpus.

**Demurrer to Petition for Writ of Habeas Corpus.**

Now comes the respondent, Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, in the State and Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled matter and for grounds of demurrer alleges:

I.

That said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus or any relief thereon.

II.

That said petition is insufficient in that the statements in the petition relative to the record of the testimony taken on the trial of the applicant, are statements of conclusions of law.

WHEREFORE, respondent prays that the writ of habeas corpus be denied.

JOHN W. PRESTON,

United States Attorney.

CASPER A. ORNBAUN,

Asst. United States Attorney,

Attorneys for Respondent.

Service of the within by copy admitted this — day of —, 191—.

JOSEPH P. FALLON,  
Attorney for Petitioner.

[Endorsed]: Filed Oct. 1, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [10]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 15,895.

In the Matter of WONG QUEN LUCK on Habeas  
Corpus.

**Stipulation (That Immigration Record and Exhibits  
be Filed and Considered Part of Petition).**

It is hereby stipulated and agreed by and between J. P. Fallon, of counsel for applicant, in the above-entitled matter, and Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, in the State and Northern District of California, and John W. Preston, United States Attorney in and for the said district, that the record and exhibits of Samuel W. Backus, Commissioner of Immigration at the Port of San Francisco, Cal., in the matter of the application of said Wong Quen Luck for admission into the United States be filed and considered a part of the petition for a writ of habeas corpus in said matter.



Dated Oct. 8, 1915.

JNO. W. PRESTON,  
United States Attorney,  
Attorney for Respondent.  
JOSEPH P. FALLON.  
Attorney for Petitioner.

[Endorsed]: Filed Oct. 9, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [11]

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*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

No. 15,895.

In the Matter of WONG QUEN LUCK, on Habeas  
Corpus.

**Order Overruling Demurrer, and Ordering Writ to  
Issue, etc.**

JOHN W. PRESTON, Esq., United States At-  
torney, and CASPAR A. ORNBAUN, Esq.,  
Assistant United States Attorney, Attor-  
neys for the Respondent.

JOSEPH P. FALLON, Esq., Attorney for  
Petitioner.

The demurrer to the petition for a writ of habeas  
corpus herein is overruled, and said writ will issue  
returnable November 6th, 1915, at 10 o'clock A. M.

October 25th, 1915.

M. T. DOOLING,  
Judge.

[Endorsed]: Filed Oct. 25, 1915. W. B. Maling,  
Clerk. By T. L. Baldwin, Deputy Clerk. [12]

*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

No. 15,895.

In the Matter of WONG QUEN LUCK, on Habeas  
Corpus.

**Writ of Habeas Corpus.**

The President of the United States of America, to  
the Commissioner of Immigration, Port of San  
Francisco, Calif., Angel Island, California,  
Greeting:

YOU ARE HEREBY COMMANDED that you  
have the body of the said person by you imprisoned  
and detained, as it is said together with the time and  
cause of such imprisonment and detention, by what-  
soever name the said person shall be called or  
charged, before the Honorable M. T. Dooling, Judge  
of the District Court of the United States, for the  
Northern District of California, at the courtroom of  
said court, in the City and County of San Francisco,  
California, on the 6th day of November, A. D. 1915,  
at 10 o'clock A. M. to do and receive what shall then  
and there be considered in the premises.

AND HAVE YOU THEN AND THERE THIS  
WRIT.

WITNESS, the Honorable M. T. DOOLING,  
Judge of the said District Court, and the seal thereof

at San Francisco, in said District, on the 1st day of November, A. D. 1915.

[Seal]

W. B. MALING,  
Clerk.

By C. W. Calbreath,  
Deputy Clerk. [13]

**Return on Service of Writ.**

United States of America,  
N. District of California,—ss.

I hereby certify and return that I served the annexed writ of habeas corpus on the Commissioner of Immigration by handing to and leaving a true and correct copy thereof with Edward White who is the Commissioner of Immigration at the Port of San Francisco, personally at San Francisco in said District on the 4th day of November, A. D. 1915.

J. B. HOLOHAN,  
U. S. Marshal.

[Endorsed]: Filed Nov. 4, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [14]

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*In the District Court of the United States, in and  
for the Northern District of California, First  
Division.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on Be-  
half of WONG QUEN LUCK.

**Return (to Writ of Habeas Corpus).**

Now comes Edward White, Commissioner of Im-

migration at the Port of San Francisco, by Charles D. Mayer, Immigrant Inspector, and in return to the writ of habeas corpus heretofore granted by said Court, admits, denies and alleges as follows:

Admits that petitioner is a resident of the City and County of San Francisco, State of California and that petition is made for and on behalf of Wong Quen Luck.

Denies that Wong Shoon Jung is the father of Wong Quen Luck.

Denies that Wong Quen Luck is the son of Wong Shoon Jung and further denies that Wong Quen Luck is a citizen of the United States.

Denies that the said Wong Quen Luck is unlawfully imprisoned, detained, confined and restrained or is unlawfully imprisoned or detained or confined or restrained of his liberty by Samuel W. Backus, or by anyone else at the Port of San Francisco at the Immigration Station at Angel Island or in some other place in the Northern District of California or at any other place or at all and in this connection respondent alleges that the said Wong Quen Luck is lawfully and rightfully held by the said immigration officers at Angel Island, California, and is about to be deported from the United States. [15]

Admits that Wong Quen Luck made application to be admitted to the United States as a citizen thereof and as the minor son of Wong Shoon Jung.

Denies that subsequent to said application the said Wong Quen Luck was refused and denied or refused or denied a fair hearing in good faith and denies that the said Secretary of Labor by abuse of discre-

tion denied the right to enter the United States.

Admits that the said Wong Quen Luck during the month of June, 1915, arrived at the port of San Francisco from China and made application to the Commissioner of Immigration at said port for admission to the United States as a citizen and as the minor son of Wong Shoon Jung.

Admits that thereafter said application for admission was denied by said Commissioner.

Denies that thereafter upon application of the said Wong Quen Luck or otherwise, the said Commissioner granted and permitted or granted or permitted new and further testimony to be submitted by the said detained person.

Denies that the said Wong Quen Luck submitted new and further testimony to said Commissioner in support of his application for admission to the United States and in this particular respondent alleges that the examination of said detained person was never reopened for the hearing of additional testimony but was a continuous examination and investigation until all of the evidence concerning said detained person was fairly introduced.

Denies that *any* subsequent hearing of testimony taken in behalf of applicant or at any other time or at all the said Commissioner recommended that the said Wong Quen Luck be admitted to the United States; denies that the said Commissioner recommended that the said Wong Quen Luck be permitted to reside [16] in the United States and further denies that the said Commissioner recommended that the said application for admission be



granted to said applicant, and in this connection respondent alleges that after hearing all of the evidence introduced with reference to the application of said applicant to enter the United States, the said immigration authorities recommended that the application of said applicant be denied, said recommendation being based upon the finding that the relationship claimed to his alleged father was not established to the satisfaction of the said immigration authorities.

Denies that the Secretary of Labor without reason refused, neglected and failed or refused or neglected or failed to consider the testimony and all of the testimony submitted on behalf of the applicant and denies that the said Secretary of Labor considered other matters in rendering his decision in this case other than the evidence submitted in behalf of said applicant, and denies that said applicant had no opportunity to rebut, deny and explain or rebut or deny or explain all of the evidence submitted in said case and in this connection respondent alleges that said applicant was presented with and had the opportunity to answer and rebut any and all evidence introduced either for or against said applicant.

As a further separate and distinct answer and defense to the petition on file herein and to the writ of habeas corpus heretofore granted by said court, respondent alleges that since the application of said applicant Wong Quen Luck was made to enter the United States through the Port of San Francisco, certain testimony and other evidence was taken concerning his said entry by the immigration authori-

ties acting for and on behalf of the Government of the United States, and in this connection respondent files with this answer all of the evidence, testimony, views of the [17] immigration was taken and marked exhibit "A," attaches to and incorporates into and makes a part of this answer the said testimony, evidence and other proceedings which compose the record known as the official record of the Department of Labor and duly certified as such; that said record contains all of the testimony, evidence and other proceedings that were before the said Secretary of Labor of the United States and which were considered by him at the time that the said warrant of deportation was issued.

WHEREFORE, respondent prays that the said petition for writ of habeas corpus and the said writ of habeas corpus be denied and dismissed and that said applicant be remanded to the custody of the respondent for deportation as provided for in the said warrant of arrest heretofore issued by the Secretary of Labor of the United States and for such other and further relief as to this court seems equitable and just.

JNO. W. PRESTON,

United States Attorney.

CASPER A. ORNBAUN,

Asst. United States Attorney,

Attorneys for Respondent.

**Stipulation Re Official Record of Department of  
Labor, etc.**

It is hereby stipulated and agreed by and between the United States Attorney and the applicant,

through his attorney Joseph P. Fallon, that the evidence, testimony and proceedings referred to in the within answer and which compose the record known as the official record of the Department of Labor and duly certified as such, may and the same is hereby incorporated into and made a part of this answer without being actually attached thereto.

JNO. W. PRESTON,

U. S. Attorney,

CASPER A. ORNBAUN,

Asst. U. S. Attorney,

Attorneys for Respondent.

JOSEPH P. FALLON,

Attorney for Petitioner. [18]

United States of America,

Northern District of California,

City and County of San Francisco,—ss.

Charles D. Mayer, being first duly sworn, deposes and says: That he is a Chinese and Immigrant Inspector connected with the Immigration Service at the Port of San Francisco, and has been specially directed to appear for and represent the respondent Edward White, Commissioner of Immigration, in the within-entitled matter; that he is familiar with all the facts set forth in the within return to the writ of habeas corpus and knows the contents thereof; that it is impossible for the said Edward White to appear in person or to give his attention to said matter; that of affiant's own knowledge the matters set forth in the return to the writ of habeas corpus are true, excepting those matters which are stated on



information and belief, and that as to those matters, he believes it to be true.

CHARLES D. MAYER.

Subscribed and sworn to before me this 8 day of November, 1915.

[Seal]

C. W. CALBREATH,  
Deputy Clerk, U. S. District Court, Northern District of California.

[Endorsed]: Filed Nov. 8, 1915. W. B. Maling, Clerk. By T. L. Baldwin, Deputy Clerk. [19]

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At a stated term of the District Court of the United States of America for the Northern District of California, First Division, held at the courtroom thereof, in the City and County of San Francisco, on Friday, the 12th day of November, in the year of our Lord, one thousand nine hundred and fifteen. Present: The Honorable MAURICE T. DOOLING, District Judge.

No. 15,895.

In the Matter of WONG QUEN LUCK, on Habeas Corpus.

**Order Discharging Wong Quen Luck from Custody.**

This matter came on regularly this day for hearing of the writ of habeas corpus heretofore issued herein. The detained was present in court in custody and with his attorney J. P. Fallon, Esq., and C. A. Ornbaun, Esq., Assistant United States Attorney, was present on behalf of respondent, and presented part of the original Immigration Records

as to detained herein. Thereupon, the Court ordered that said Records be filed and marked Respondent's Exhibit "B," and that the same be considered as a part of the original petition herein. Mr. Fallon then called the detained Wong Quen Luck, who was duly sworn and examined in his own behalf, through Chinese Interpreter D. D. Jones, Esq. After hearing Mr. Ornbaun and Mr. Fallon, the Court ordered said matter submitted, and after due deliberation had thereon, ordered that the detained herein Wong Quen Luck be, and he is hereby, discharged from further custody and that he go hence without day. Thereupon Mr. Ornbaun, on behalf of respondent, duly entered an exception to said order. [20]

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*In the District Court of the United States, Northern  
District of California.*

No. 15,895.

In the Matter of WONG QUEN LUCK, on Habeas  
Corpus.

**Order of Discharge.**

This matter having been regularly brought on for hearing upon the issues joined herein, and the same having been duly heard and submitted, and due consideration having been had thereon, it is by the Court now here ordered, that the said named person in whose behalf the writ of habeas corpus herein was sued out, is illegally restrained of his liberty, as alleged in the petition herein, and that he be, and he is hereby discharged from the custody from which he

has been produced, and that he go hence without day.

Entered this 12th day of November, 1915.

[Seal]

W. B. MALING,

Clerk.

By C. W. Calbreath,

Deputy Clerk.

[Endorsed]: Filed Nov. 12, 1915. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [21]

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*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
sion.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on be-  
half of WONG QUEN LUCK.

**Petition for Appeal.**

To the Honorable M. T. DOOLING, Judge of the  
District Court of the United States, for the  
Northern District of California:

Edward White, as Commissioner of Immigration,  
at the Port of San Francisco, appellant herein, feel-  
ing aggrieved by the order and judgment made and  
entered in the above-entitled cause, on the 12th day  
of November, A. D. 1915, discharging Wong Quen  
Luck from the custody of said appellant, does  
hereby appeal from said order and judgment to the  
United States Circuit Court of Appeals for the  
Ninth Circuit, for the reasons set forth in the as-  
signment of errors filed herewith.

WHEREFORE, petitioner prays that his appeal be allowed and that citation be issued as provided by law and that a transcript of the record, proceedings and documents, and all of the papers upon which said order and judgment were based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit under the rules of said court and in accordance with the law in such case made and provided.

Dated this 10th day of May, A. D. 1916.

JNO. W. PRESTON,  
United States Attorney.

CASPER A. ORNBAUN,  
Asst. United States Attorney.

Service of the within by copy admitted this — day of —, 19—.

JOSEPH P. FALLON,  
Attorney for Appellee.

[Endorsed]: Filed May 11, 1916. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [22]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on behalf of WONG QUEN LUCK.

**Assignment of Errors.**

Now comes Edward White, Commissioner of Immigration at the Port of San Francisco, respondent

in the above-entitled case, and appellant in the appeal to the United States Circuit Court of Appeals taken herein, by his attorneys John W. Preston, United States Attorney, and Casper A. Ornbaun, Assistant United States Attorney, and files the following assignment of errors upon which he will rely in the prosecution of his appeal in the above-entitled cause to the United States Circuit Court of Appeals for the Ninth Circuit from an order and judgment made by this Honorable Court on the 12th day of November, A. D. 1915:

I.

That the Court erred in granting the writ of habeas corpus and discharging the alien, Wong Quen Luck, from the custody of Edward White, the said Commissioner of Immigration.

II.

That the Court erred in holding that it had jurisdiction to issue a writ of habeas corpus in the above-entitled cause, as prayed for in the said petition for a writ of habeas corpus.

III.

That the Court erred in holding that the allegations contained in said petition for a writ of habeas corpus were sufficient in law to justify the granting and issuing of a writ of habeas corpus.

IV.

That the Court erred in finding that the evidence upon which [23] the Secretary of Labor issued the warrant of deportation for the said Wong Quen Luck was insufficient to justify deportation of the said Wong Quen Luck.

## V.

That the Court erred in holding that the evidence as presented in the said petition for a writ of habeas corpus and the return thereto, together with all of the exhibits on file in the above-entitled cause, was insufficient to justify deportation and in permitting the said Wong Quen Luck to appear before this Court and give testimony in which the said Wong Quen Luck endeavored to explain the discrepancies which appeared in the testimony given by him and his alleged father upon the hearing had before the immigration officers at Angel Island, upon the application of the said Wong Quen Luck to enter the United States.

## VI.

That the Court erred in discharging the said Wong Quen Luck from the custody of the said Edward White, Commissioner of Immigration, after hearing the testimony of the said Wong Quen Luck, as given before the said Court on November 12, 1915.

WHEREFORE, the said Edward White, appellant herein, prays that the said order and judgment of the United States District Court, in and for the Northern District of California made herein, in the office of the clerk of the said court, on the 12th day of November, A. D. 1915, setting aside the return to the petition for writ of habeas corpus, and discharging the said Wong Quen Luck from the custody of Edward White, Commissioner of Immigration, be reversed, and that the said Wong Quen Luck be *remained* to the custody of the said Commissioner of Immigration.



Dated this 10th day of May, A. D. 1916.

JNO. W. PRESTON,

United States Attorney.

CASPER A. ORNBAUN,

Asst. United States Attorney. [24].

Service of the within by copy admitted this —  
day of —, 19—.

JOSEPH P. FALLON,

Attorney for Appellee.

[Endorsed]: Filed May 11, 1916. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [25]

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*In the District Court of the United States, in and for  
the Northern District of California, First Divi-  
sion.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on be-  
half of WONG QUEN LUCK.

**Order Allowing Appeal.**

On motion of John W. Preston, United States Attorney, and Casper A. Ornbaun, Assistant United States Attorney, attorneys for Edward White, Commissioner of Immigration at the Port of San Francisco, and petitioner in the above-entitled cause, it is hereby ordered that an appeal to the United States Circuit Court of Appeals, for the Ninth Circuit, from an order and judgment heretofore made and entered herein, discharging the said Wong Quen Luck from the custody of the said Edward White, Commissioner of Immigration, at the Port of San

Francisco, be and the same is hereby allowed, and that a certified transcript of the record, testimony, exhibits, stipulations and all proceedings be forthwith transmitted to the United States Circuit Court of Appeals for the Ninth Circuit, in the manner and time prescribed by law.

. Dated this 11th day of May A. D. 1916.

M. T. DOOLING,

Judge of the District Court.

Service of the within by copy admitted this —— day of ——, 19—.

JOSEPH P. FALLON,

Attorney for Appellee.

[Endorsed]: Filed May 11, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [26]

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*In the District Court of the United States, in and for the Northern District of California, First Division.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on behalf of WONG QUEN LUCK.

**Notice of Appeal.**

To the Clerk of the Above-entitled Court, and to Wong Quen Luck, and to Joseph P. Fallon, His Attorney.

You and each of you will please take notice that Edward White, Commissioner of Immigration, at the Port of San Francisco, appellant herein, hereby appeals to the United States Circuit Court of Ap-



peals for the Ninth Circuit, from an order and judgment made and entered herein on the 12th day of November, A. D. 1915, setting aside the return to the petition for a writ of habeas corpus and discharging the said Wong Quen Luck from the custody of the said Edward White, Commissioner of Immigration at the Port of San Francisco, and appellant herein.

Dated this 10th day of May, A. D. 1916.

JNO. W. PRESTON,

United States Attorney.

CASPER A. ORNBAUN,

Asst. United States Attorney.

Service of the within by copy admitted this — day of —, 19—.

JOSEPH P. FALLON,

Attorney for Appellee.

[Endorsed]: Filed May 11, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [27]

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*In the District Court of the United States, in and for the Northern District of California, First Division.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on behalf of WONG QUEN LUCK.

**Stipulation Re Respondent's Exhibits "A"  
and "B."**

It is hereby stipulated and agreed by and between the respective parties in the above-entitled cause,

that the original record of the Bureau of Immigration, which was filed in the above-entitled Court, as Respondent's Exhibits "A" and "B," and which were made a part of respondent's return to the petition for writ of habeas corpus in said cause, may be transferred in their original form and without being transcribed, to the United States Circuit Court of Appeals for the Ninth Circuit, and the same is and may there be considered a part of respondent's return to the said petition for writ of habeas corpus, and the record, in determining this cause on appeal to the said United States Circuit Court of Appeals for the Ninth Circuit, without objection on the part of either of said respective parties.

Dated this 10th day of May, A. D. 1916.

JNO. W. PRESTON,

United States Attorney.

CASPER A. ORNBAUN,

Asst. United States Attorney.

JOSEPH P. FALLON,

Attorney for Wong Quen Luck. [28]

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*In the District Court of the United States, in and for  
the Northern District of California, First Division.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on behalf of WONG QUEN LUCK.

**Order Directing Transmission of Original Exhibits  
to Appellate Court.**

It appearing to the Court that it is both necessary and proper that the original papers and records referred to in the above-entitled stipulation should be inspected in the United States Circuit Court of Appeals, for the Ninth Circuit, in determining the appeal of said cause, the same having been made and considered a part of the respondent's return to the petition for writ of habeas corpus,—

IT IS HEREBY ORDERED that the said original record be transferred by the clerk of said court to the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, to be retained by said clerk until the appeal in the said above-entitled cause is properly disposed of, at which time the original papers and records are to be returned to the clerk of the above-entitled court.

M. T. DOOLING,

Judge of the District Court.

Dated this 13 day of May, A. D. 1916.

[Endorsed]: Filed May 13, 1916. W. B. Maling,  
Clerk. By C. W. Calbreath, Deputy Clerk. [29]

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*In the District Court of the United States, in and for  
the Northern District of California, First Di-  
vision.*

No. 15,895.

In the Matter of the Application of WONG HONG  
for a Writ of Habeas Corpus for and on be-  
half of WONG QUEN LUCK.

**Stipulation (As to Certain Discrepancies in the  
Testimony).**

The Court having determined that the hearing before the immigration officers upon the application of Wong Quen Luck to enter the United States was unfair, proceeded to hear and determine such application and

IT IS HEREBY STIPULATED AND AGREED, by and between the respective parties in the above-entitled cause, that the facts appearing before said Court on the 12th day of November, A. D. 1915, at which the said Court permitted the said Wong Quen Luck, on hearing on the return to writ of habeas corpus, to take the stand and explain certain discrepancies in his testimony and the testimony of his alleged father, are as follows:

The detained, Wong Quen Luck, contended that the discrepancies which appeared in his testimony and the testimony of his father at the hearing had before the immigration officials, and upon which he was not permitted to enter the United States, was due to the fact that the official interpreter, who acted for the immigration officials at the time that the testimony of the said applicant was taken, spoke a different dialect from that spoken by the said detained, and because of the fact that the said official interpreter spoke a dialect which was not understood by the detained, the hearing granted him upon his application to enter the United States was unfair.

Upon the foregoing statement, the Honorable M. T. Dooling, Judge of the above-entitled court, permitted said detained to take the stand, and the answers of the said detained to the various questions propounded to him by his counsel and the United States Attorney's office, through the official Chinese Court Interpreter, namely: D. D. Jones, explained the discrepancies satisfactorily to the Court, and the said detained was ordered released.

Dated this 17th day of May, A. D. 1916.

JNO. W. PRESTON,

United States Attorney.

CASPER A. ORNBAUN,

Asst. United States Attorney.

JOSEPH P. FALLON,

Attorney for Wong Quen Luck.

[Endorsed]: Filed May 18, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [31]

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*In the District Court of the United States, for the Northern District of California, First Division.*

**Certificate of Clerk U. S. District Court, as to Transcript on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 31 pages, numbered from 1 to 31, inclusive, contain a full, true and correct transcript of certain records and proceedings, in the matter of Wong Quen Luck, on Habeas Corpus, No. 15,895, as the same now remain on file and of record in the office of the clerk of

said court; said transcript having been prepared pursuant to and in accordance with the "Praeceptum" (copy of which is embodied in this transcript), and the instructions of the attorney for respondent and appellant herein.

I further certify that the costs for preparing and certifying the foregoing Transcript on Appeal is the sum of Thirteen Dollars and Eighty Cents (\$13.80).

Annexed hereto is the Original Citation on Appeal issued herein, page 33.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court this 9th day of June, A. D. 1916.

[Seal]

WALTER B. MALING,

Clerk.

By T. L. Baldwin,

Deputy Clerk.

CMT. [32]

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### Citation on Appeal.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Wong Quen Luck, and Joseph P. Fallon, His Attorney, Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern



District of California wherein Edward White, Commissioner of Immigration at the Port of San Francisco, is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Northern District of California, this 11th day of May, A. D. 1916.

M. T. DOOLING,

United States District Judge. [33]

United States of America,—ss.

On this 12th day of May, in the year of our Lord one thousand nine hundred and sixteen, personally appeared before me, Joseph E. Connolly, the subscriber, and makes oath that he delivered a true copy of the within citation to Joseph Fallon, the attorney for the appellee, on the 11th day of May, 1916.

JOSEPH E. CONNOLLY.

Subscribed and sworn to before me at San Francisco, this 11th day of May, A. D. 1916.

[Seal]

C. W. CALBREATH.

Deputy Clerk U. S. District Court, Northern District of California.

[Endorsed]: No. 15,895. United States District Court for the Northern District of California, Edward White, Appellant, vs. Wong Quen Luck. Citation on Appeal. Filed May 11, 1916. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.

[Endorsed]: No. 2810. United States Circuit Court of Appeals for the Ninth Circuit. Edward White, Commissioner of Immigration at the Port of San Francisco, Appellant, vs. Wong Quen Luck, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, First Division.

Filed June 9, 1916.

FRANK D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.